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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLITO ALVAREZ UDARBE,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 04-72219

Agency No. A070-080-537

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 18, 2009^{**}

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Charlito Alvarez Udarbe, a native and citizen of the Philippines, petitions for review of a Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for suspension of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deportation, voluntary departure, asylum, and withholding of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the IJ's pretermission of Udarbe's suspension of deportation claim and denial of voluntary departure because he failed to exhaust the issues before the BIA. *See Zara v. Ashcroft*, 383 F.3d 927, 930 (9th Cir. 2004).

Substantial evidence supports the IJ's adverse credibility determination because the IJ's negative assessment of Udarbe's demeanor is entitled to special deference. *See Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 1999). Because Udarbe's asylum and withholding of removal claims are based on testimony the IJ found not credible, those claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.